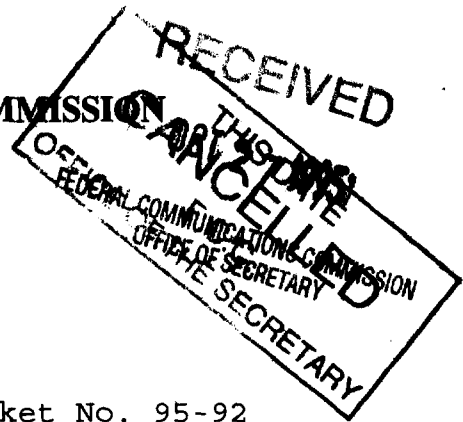


Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554



In re )  
 )  
 )  
Review of the Commission's )  
Regulations Governing Programming )  
Practices of Broadcast Television )  
Networks and Affiliates )

MM Docket No. 95-92

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To: The Commission

**COMMENTS OF LEE ENTERPRISES, INCORPORATED**

Lee Enterprises, Incorporated ("Lee"), by its attorneys, hereby submits its comments in the above-referenced proceeding.<sup>1</sup> Lee is the licensee or controlling owner of nine television stations and seven TV satellite stations, as detailed in Appendix A attached hereto. Lee fully supports the positions advanced in the Comments being filed by the Network Affiliated Stations Alliance ("NASA") with regard to the three network-affiliate rules addressed in this docket.<sup>2</sup> Lee submits that in order to preserve broadcasters' ability to best serve their communities of license, the Commission must retain the "right to reject" rule, the "option

<sup>1</sup> Review of the Commission's Regulations Governing Programming Practices of Broadcast Television Networks and Affiliates, Notice of Proposed Rule Making (MM Docket No. 95-92, released June 15, 1995) ("Notice").

<sup>2</sup> See Comments of the Network Affiliated Stations Alliance in MM Docket 95-92, to be filed October 30, 1995.

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time" prohibition and the "exclusive affiliation" rule, 47 C.F.R. §§ 658(e), 658(d) and 658(a).

Television licensees have a fundamental obligation, grounded in Section 307(b) of the Communications Act, 47 U.S.C. § 307(b), to air programming that is responsive to the tastes, ascertained needs and problems of the local communities they serve. To date, the partnership between networks and their affiliates has served to combine the efficiencies of national production, distribution, and sales while preserving the autonomy of the local station. Given the powerful position of the networks vis a vis their local affiliates, however, certain safeguards were and still are necessary to maintain the delicate balance inherent in the network-affiliate relationship, and thus to preserve the public's interest in having programming decisions made at the local level instead of by a national programming source.

As the NASA comments stress, the rules at issue here do not intrude materially into the business relationship between networks and affiliates, but simply provide an important safety net to preserve affiliates' control over their stations. Because of the rules being reexamined by the Commission in this proceeding, network affiliates are currently free to choose whether to clear network programming.<sup>3</sup> As the balance of power in the network-affiliate relationship has not changed since these rules were

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<sup>3</sup> NASA's Comments indicate that almost 98 percent of prime-time network programming was run by affiliates in 1994 and that affiliates cleared almost 90 percent of non-prime time programming, thus vitiating any claim by the networks that affiliate clearance practices have frustrated national programming viability.

affirmed, Lee concurs with NASA's view that the rules should not be altered.

Lee is particularly concerned with the Commission's proposal to alter the "right to reject" rule, which forms the cornerstone of the network-affiliate relationship. This rule provides that networks cannot, by contract or otherwise, prevent or hinder network affiliates from rejecting network programming that the licensee finds to be unsatisfactory or contrary to the public interest, or from substituting for network programming any program which, in the station's opinion, is of greater local or national importance.

Lee firmly believes that the "right to reject" rule, as it stands, is integral to the ability of broadcasters to program to the needs, tastes and desires of their communities. The Commission's Notice proposes to alter the rule, however, allowing affiliates to preempt network programming under the rule where preemptions are "based solely on financial considerations." As NASA points out, however, such a change in the rule would place broadcasters in the position of justifying their programming decisions to the networks, create administrative confusion as all parties struggle with the question of what constitutes a "decision based on financial considerations," and indeed would undermine the public interest rationale underlying the rule as it now stands. In response to highly exclusive and limiting arrangements imposed by networks prior to the adoption of the rule, the "right to reject" was designed, in accordance with the obligations imposed upon broadcasters by the Communications Act, to insure that an

exercise of power by a network would not curtail its affiliate licensee's freedom to program for the needs of its particular community.

In Lee's estimation, the marketplace has not changed to the degree where affiliates have gained enough leverage and bargaining power to lessen potential network control over programming decisions. Therefore, retention of the "right to reject" rule is crucial to preserving affiliates' ability to make independent programming decisions, when their judgment deems it necessary, that serve their communities of license rather than the networks. In Lee's experience, the value of a network affiliation is substantial -- therefore, in the absence of safeguards, licensees would be more likely to compromise local, independent programming judgments than risk loss of their affiliation. Such a result is completely inconsistent with the Commission's longstanding policy of ensuring that licensees are free to present programming that their communities value more highly than network programming and thus serve the needs, interests, and tastes of their local audiences.

Like NASA, Lee believes that the need for the "right to reject," "option time," and "exclusive affiliation" rules remains unabated. Lee concurs with the Comments filed by NASA in this

proceeding, and urges the Commission to retain these rules in their current form.

Respectfully submitted,

LEE ENTERPRISES, INCORPORATED

By: 

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Its Attorneys

October 30, 1995

## APPENDIX A

Lee Enterprises, Incorporated ("Lee") is the licensee of the following television stations:

<u>Station</u>	<u>Location</u>	<u>Class</u>
WSAZ-TV	Huntington, WV	TV
KGMB-TV	Honolulu, HI	TV
KGMD-TV*	Hilo, HI	TV
KGMV-TV*	Wailuku, Maui, HI	TV
KGUN-TV	Tucson, AZ	TV
KMTV	Omaha, NE	TV
KZIA-TV	Las Cruces, NM/ El Paso, TX	TV

Lee is 100% controlling owner of the following television stations:

<u>Licensee</u>	<u>Station</u>	<u>Location</u>
KOIN-TV, Inc.	KOIN-TV	Portland, OR
New Mexico Broadcasting Co., Inc.	KRQE-TV	Albuquerque, NM
	KBIM-TV**	Roswell, NM
	KREZ-TV**	Durango, CO
Topeka License Subsidiary Corp.	KSNT(TV)	Topeka, KS
Wichita License Subsidiary Corp.	KSNW(TV)	Wichita, KS
	KSNG(TV)***	Garden City, KS
	KSNC(TV)***	Great Bend, KS
	KSNK(TV)***	McCook, KS

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\* Satellite of KGMB-TV

\*\* Satellite of KRQE-TV

\*\*\* Satellite of KSNW(TV)